

Introduced by Senator De León

February 16, 2011

An act to amend Sections 30355, 30357, and 30365 of, and to add Sections 29826, 30346, and 30358 to, the Penal Code, relating to ammunition and firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as introduced, De León. Ammunition.

(1) Existing law generally regulates the transfer and possession of firearms, and prohibits a person from possessing a firearm if he or she has been convicted of a felony or convicted of a specified misdemeanor, including threatening an officer or employee of a public or private educational institution.

This bill would provide that a person who is enjoined from engaging in activity pursuant to an injunction against that person as a member of a criminal street gang, as specified, may not own, possess, or have under the person's custody or control, any firearm. The bill would provide that violation of these provisions is a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law generally regulates handgun ammunition vendors.

This bill would, commencing February 1, 2012, require a handgun ammunition vendor to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business licenses required by the jurisdiction for ammunition sales. The bill would also require that copies of ammunition sales records be transmitted to the county sheriff or chief of police if required by local law.

(3) Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor.

This bill would also provide that those records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. A violation of these provisions would be a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(4) Existing law provides that specified handgun ammunition records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would provide that records may be removed from the premises for purposes of copying or other investigatory or enforcement purposes by any person authorized to inspect those records, as specified.

The bill would also provide that commencing February 1, 2012, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party without the written consent of the purchaser or transferee. The bill would provide that a violation of these provisions is a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 29826 is added to the Penal Code, to
2 read:

3 29826. (a) A person who is enjoined from engaging in activity
4 pursuant to an injunction issued against that person pursuant to
5 Section 3479 of the Civil Code as a member of a criminal street
6 gang, as defined in Section 186.22, may not own, possess, or have
7 under his or her custody or control, any firearm.

8 (b) A violation of this section is a misdemeanor.

9 SEC. 2. Section 30346 is added to the Penal Code, to read:

10 30346. (a) Commencing February 1, 2012, a vendor shall
11 provide written notice to the local police chief, or if the vendor is
12 in an unincorporated area, to the county sheriff, of the vendor's
13 intent to conduct business in the jurisdiction, and shall obtain any
14 regulatory or business licenses required by the jurisdiction for
15 ammunition sales.

16 (b) Copies of ammunition sales records required by this article
17 shall be transmitted to the county sheriff or chief of police if
18 required by local law.

19 SEC. 3. Section 30355 of the Penal Code is amended to read:

20 30355. (a) Commencing February 1, 2011, the records required
21 by this article shall be maintained on the premises of the vendor
22 for a period of not less than five years from the date of the recorded
23 transfer.

24 (b) *Any records required by this article that are no longer*
25 *required to be maintained shall be destroyed in a manner that*
26 *protects the privacy of the purchaser or transferee who is the*
27 *subject of the record.*

28 SEC. 4. Section 30357 of the Penal Code is amended to read:

29 30357. (a) Commencing February 1, 2011, the records referred
30 to in Section 30352 shall be subject to inspection at any time during
31 normal business hours by any peace officer employed by a sheriff,
32 city police department, or district attorney as provided in
33 subdivision (a) of Section 830.1, or employed by the department
34 as provided in subdivision (b) of Section 830.1, provided that the
35 officer is conducting an investigation where access to those records
36 is or may be relevant, is seeking information about persons
37 prohibited from owning a firearm or ammunition, or is engaged
38 in ensuring compliance with the Dangerous Weapons Control Law,

1 as defined in Section 23500, or any other laws pertaining to
2 firearms or ammunition.

3 (b) The records referred to in Section 30352 shall also be subject
4 to inspection at any time during normal business hours by any
5 other employee of the department, provided that the employee is
6 conducting an investigation where access to those records is or
7 may be relevant, is seeking information about persons prohibited
8 from owning a firearm or ammunition, or is engaged in ensuring
9 compliance with the Dangerous Weapons Control Law, as defined
10 in Section 23500, or any other laws pertaining to firearms or
11 ammunition.

12 (c) *The records referred to in Section 30352 may be removed*
13 *from the premises for purposes of copying or other investigatory*
14 *or enforcement purposes by any person authorized to inspect those*
15 *records pursuant to this article.*

16 SEC. 5. Section 30358 is added to the Penal Code, to read:

17 30358. Commencing February 1, 2012, except for the purposes
18 set forth in Section 30357, no vendor shall provide the information
19 specified in subdivision (a) of Section 30352 to any third party
20 without the written consent of the purchaser or transferee.

21 SEC. 6. Section 30365 of the Penal Code is amended to read:

22 30365. (a) A violation of Section 30352, 30355, 30358, 30360,
23 or 30362 is a misdemeanor.

24 (b) The provisions of this section are cumulative, and shall not
25 be construed as restricting the application of any other law.
26 However, an act or omission punishable in different ways by
27 different provisions of law shall not be punished under more than
28 one provision.

29 SEC. 7. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.